

AMENDED IN SENATE APRIL 8, 1996

SENATE BILL

No. 1888

Introduced by Senator Mello

February 22, 1996

An act to ~~add Sections 39043.5, 39613, and 42353.5 to amend~~ *Section 41704 of, and to add Section 39043.5 to,* the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1888, as amended, Mello. Air pollution: visibility obscurants.

Existing law prohibits the discharge into the atmosphere of any air contaminant of a specified shade or opacity, requires a permit for various activities that may cause the issuance of air contaminants, and makes certain exceptions to those requirements.

~~This bill would additionally except from those provisions the use of visibility obscurant materials, as specified, in the training of military personnel or the testing of equipment by the United States Department of Defense on any military reservation, until January 1, 2000, except as specified, and thereafter, upon a specified review and finding by the State Air Resources Board. The bill would require the state board to carry out its duties under the bill upon executing an agreement with the federal government for reimbursement of costs incurred. The bill would authorize the hearing board of an air pollution control district or air quality management district to grant a variance for the use of obscurants if there is no health or environmental risk.~~

This bill would exempt from those provisions the use of an obscurant, as defined, for the purposes of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation.

Vote: majority. Appropriation: no. Fiscal committee: yes no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 39043.5 is added to the Health
2 and Safety Code, to read:

3 39043.5. "Obscurant" means ~~any material released to~~
4 ~~the atmosphere during military exercises to obscure~~
5 ~~vision, including fog oil, white phosphorous, or other~~
6 ~~material which may be used to produce a smoke screen~~
7 ~~for impairing visibility into a localized area.~~

8 SEC. 2. Section 39613 is added to the Health and
9 Safety Code, to read:

10 39613. (a) ~~The use of any obscurant exclusively~~
11 ~~during the training of military personnel or exclusively in~~
12 ~~the testing of military equipment by the United States~~
13 ~~Department of Defense on any military reservation is~~
14 ~~exempt from Sections 41701 and 42301 until January 1,~~
15 ~~2000.~~

16 (b) ~~The state board shall, not later than January 1,~~
17 ~~2000, determine whether to exempt from Sections 41701~~
18 ~~and 42301 the use on and after January 1, 2000, of~~
19 ~~obscurants as described in subdivision (a). The~~
20 ~~exemption shall apply on and after that date if both of the~~
21 ~~following occur:~~

22 (1) ~~The state board reviews studies prepared by the~~
23 ~~United States Department of Defense, or its contractors,~~
24 ~~which assess the public health and environmental~~
25 ~~impacts of the use of the obscurant.~~

26 (2) ~~Based upon the information contained in the~~
27 ~~studies, or based upon other relevant information, the~~
28 ~~state board makes a finding at a public hearing that the~~
29 ~~use of the obscurant poses no significant threat to public~~
30 ~~health or the environment, and that the use of the~~
31 ~~obscurant will not significantly contribute to the violation~~

~~of any state or federal ambient air quality standard or toxic air contaminant standard in the district or districts within which the obscurant is to be used, or on a statewide basis.~~

~~(e) If, prior to January 1, 2000, the state board determines and finds at a public hearing that the use of obscurants as described in subdivision (a) should not be exempt from Section 41701 or 42301 because the use of the obscurant poses a significant threat to public health or the environment, or will significantly contribute to violation of any state or federal ambient air quality standard in the district or districts in which the obscurant is to be used, or on a statewide basis, then after the date of that hearing, the exemption in subdivision (a) shall no longer apply.~~

~~(d) The state board shall carry out its duties under this section upon executing an agreement with the federal government to reimburse the state board for the costs incurred. No state moneys shall be used to carry out this section.~~

~~SEC. 3. Section 42353.5 is added to the Health and Safety Code, to read:~~

~~42353.5. Notwithstanding subdivisions (b) to (d), inclusive, of Section 39613, the hearing board may grant a variance for the use of any obscurant under the circumstances described in subdivision (a) of Section 39613 if the district air pollution control officer determines that there are no health or environmental risks that would result from that use. *fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area.*~~

~~SEC. 2. Section 41704 of the Health and Safety Code is amended to read:~~

~~41704. Section 41701 does not apply to any of the following:~~

~~(a) Fires set pursuant to Section 41801.~~

~~(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).~~

1 (c) Fires set or permitted by any public officer in the
2 performance of his or her official duty for the
3 improvement of watershed, range, or pasture.

4 (d) Use of any aircraft to distribute seed, fertilizer,
5 insecticides, or other agricultural aids over lands devoted
6 to the growing of crops or raising of fowl or animals.

7 (e) Open outdoor fires used only for cooking of food
8 for human beings or for recreational purposes.

9 (f) The use of orchard and citrus grove heaters which
10 are in compliance with the requirements set forth in
11 Section 41860.

12 (g) Agricultural operations necessary for the growing
13 of crops or raising of fowl or animals.

14 (h) The use of other equipment in agricultural
15 operations necessary for the growing of crops or raising
16 of fowl or animals.

17 (i) Fugitive dust emissions from rock crushing
18 facilities within the Southeast Desert Air Basin, where the
19 facilities were in existence prior to January 1, 1970, at a
20 location where the population density is less than 10
21 persons per square mile in each square mile within a
22 seven-mile radius of the facilities; provided, however,
23 that under no circumstances shall the emissions cause a
24 measurable degradation of the ambient air quality or
25 create a nuisance. This subdivision does not apply to any
26 rock crushing facilities which (1) process in excess of 100
27 tons of rock in any 24-hour period, averaged over any
28 period of 30 consecutive days, (2) have 25 or more
29 employees, (3) fail to operate and maintain in good
30 working order any emission control equipment installed
31 prior to January 1, 1978, or (4) undergo a change of
32 ownership after January 1, 1977.

33 (j) Emissions from vessels using steam boilers during
34 emergency boiler shutdowns for safety reasons, safety
35 and operational tests required by governmental agencies,
36 and where maneuvering is required to avoid hazards.

37 (k) Emissions from vessels during a breakdown
38 condition, as long as the discharge is reported in
39 accordance with district requirements.

(l) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions are not applicable to the equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels when the emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision does not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when the emissions result from startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(o) Emissions from methanol fuel manufacturing plants which manufacture not more than 2,000,000 gallons of methanol fuel per day from wood, agricultural waste, natural gas, or coke (exclusive of petroleum coke). As used in this subdivision, "manufacturing plant" includes all necessary support systems, including field operations equipment that provide feed stock. However, this subdivision shall apply to not more than one methanol fuel manufacturing plant in each air basin and each plant shall be located in an area designated as an

1 “attainment area” pursuant to the Clean Air Act (42
2 U.S.C. Sec. 7401 et seq.) and shall meet all applicable
3 standards required by the district board. This subdivision
4 shall remain in effect with respect to a plant until five
5 years after construction of the plant and shall have no
6 force and effect with respect to the plant on and after that
7 date.

8 *(p) The use of an obscurant for the purpose of training*
9 *military personnel and the testing of military equipment*
10 *by the United States Department of Defense on any*
11 *military reservation.*

